

16cv5420

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKRendell RobinsonRECEIVED
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2017 APR -4 AM 10:42

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

under the

Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

-against-

MEREDITH TILLYSON WEN T. TERRYJOHN H. COLLIS STEVEN M. WATKINSCRIZIO A. BUCOLOWILLIAM A. LEE METROD C.CLERK "see attached"Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/26/17

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Rendell Robinson

ID #

07A 6175

Current Institution

FIVE POINTS CORRECTIONAL INSTIT.

Address

WATER ROUTE 96 P.O. BOX 119ROSELANDNEW YORK 11451

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name Ronald Tilletson Shield #
 Where Currently Employed NYS DOCCS GREEN HAVEN Corr. Facility
 Address 594 Route 216
Stormville New York 12582

Defendant No. 2 Name Glenn J. Tonkin Shield #
 Where Currently Employed NYS DOCCS GREEN HAVEN Corr. Facility
 Address 594 Route 216
Stormville New York 12582

Defendant No. 3 Name John H. Franklin Shield #
 Where Currently Employed NYS DOCCS GREEN HAVEN Corr. Facility
 Address 594 Route 216
Stormville New York 12582

Defendant No. 4 Name Steven M. Wisniewski Shield #
 Where Currently Employed NYS DOCCS GREEN HAVEN Corr. Facility
 Address 594 Route 216
Stormville New York 12582

Defendant No. 5 Name Crazio A. Bucolo Shield #
 Where Currently Employed NYS DOCCS GREEN HAVEN Corr. Facility
 Address 594 Route 216
Stormville New York 12582

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? GREEN HAVEN
CORRECTIONAL FACILITY
- B. Where in the institution did the events giving rise to your claim(s) occur? ATTACHED UNIT
Also known as Residential Crisis Treatment, Assessment & Referral (R.C.T.A.R.)
And the Special Housing Unit (S.H.U.)
- C. What date and approximate time did the events giving rise to your claim(s) occur? Jul 3rd
2013 at approximately 10:30 A.M. and Jul 10 2013
throughout and 1st Unit August 23 2014

Full Names of the Defendant(s) Continued:

Anthony J. Annuzzi, Joseph Bellmer, Albert Rock,
and Vernon N. Ponder

Offenses in this Complaint Continued:

Defendant No. 6 Name: William L. Lee

Where Currently Employed: No Place: GREEN HAVEN Corr. Facility

Address: 594 Route 216

Cornville, New York 12582

Defendant No. 7 Name: Gertraud C. Elert

Where Currently Employed: No Place: GREEN HAVEN Corr. Facility

Address: 594 Route 216

Cornville, New York 12582

Defendant No. 8 Name: Anthony J. Danucci

Where Currently Employed: New York State Department of Corrections
Community Supervision

Address: The Harriman State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 9 Name: Joseph Bellizzi

Where Currently Employed: New York State Department of Corrections
Community Supervision

Address: The Harriman State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 10 Name: Albert Rack

Where Currently Employed: New York State Department of Corrections
Community Supervision
See Attached

Address: The HARTMAN State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 11 Name: KENNETH W. BIRCH

Formerly Employed by: New York State Department of Corrections
Community Supervision

Address: The HARTMAN State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

V. Previous Law Suits Continued:

L. Suits to Previous Law Suits:

Petitioner: Rendell Robinson
Respondent: Anthony Amucci, Acting Commissioner
of the New York State Department of Corrections
and Community Supervision

2. Court: Supreme Court of the State of New York
County of Dutchess

3. Index Number: 1044/2014

4. Name of Judge Assigned to Your Case: Hon. Dennis M. Watson
Acting Supreme Court Justice

5. Approximate Date of Filing lawsuit: Feb. Mar. 2014

6. To the Case Will Pending: On October 16, 2014

The Petition Pursuant to the Article 18 of the CPLR,
Seeking reversal of the Tier 10 Inmate Disciplinary, Held at
Green Haven Correctional Facility, which decision was rendered on
August 23, 2013

V. Previous Lawfirms Continued:

2. Firms to Previous Lawfirm

Plaintiff: Rendell Robinson

Defendants: James Taylor, Mark D. KHN, Jeffery R. Ror

William Kocinski, Rerie Morrison, Leon Rendell

Donald Quinn, Craig Goodman, Kimberly Light,
Dorothy North, David K. Ror.

Via Previous LawBots continued:

Related to Previous LawBots Continued: Defendants

JASON BUTLER, ANDREW BURNS, ROBERT LEJADA,
LACHARY BONNER, CHRISTEN ARNOLDTH, NATE ALFRED,
ABDO AL JAEZI, SARAH AL JAEZI

1. Plaintiff: Roderick Robinson

Defendant: The City of New York, et al.

2. Court: United States District Court, Eastern District of New York

3. Docket & Index Number: 10-CV-4947 (ARR)

4. Name of Judge Assigned to Case: ROANNE L. MANN

5. Approximate Date of Filing lawsuit: 2010

6. Is the Case Still Pending? No

7. What was the result of the case? The Case Was Settled IN 2012

Address: THE HARRIMAN State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Defendant No. 11 Name:

Formerly Employed by: New York State Department of Corrections
Community Supervision

Address: THE HARRIMAN State Campus - Building 2
1220 Washington Avenue
Albany, New York 12226-2050

Re: Previous lawsuits continued:

Have you filed other lawsuits in State or Federal Court dealing with the same facts involved in this action? Yes

1. Parties to previous lawsuit:

M

Plaintiff: Randall Robinson
Petitioner:

Defendant: Nathan Sanchez

Respondent: Acting Commissioner of the New York State Department of Corrections and Community Supervision

2. Court is Federal Court, name the district if State Court.
(name the County)

Supreme Court of the State of New York, County of Dutchess

3. Docket or Index Number: Index No. 1044/2014

4. Name of Judge assigned to your case: Hon. Denise M. Watson,
Acting Supreme Court Justice

5. Approximate date of filing lawsuit: 2014

6. Is the case still pending: On October 16, 2014 the
case was transferred to the Supreme Court of the State of New York
Rensselaers Division: Record Department Under Docket No.
2014-09907 where the case is still pending

The case is pursuant to Article 78 of the CPLR
seeking reversal of a per se inmate disciplinary hearing
held at Green Haven Correctional Facility which decision was rendered
on August 23, 2013

D. Facts: I was being admitted into the facility's Office of Mental Health (O.M.H.) Daylight Unit Observation Suicide Watch also known as an Residential Crisis Treatment where inside of the tank No. 2 Area Supervisor Sergeant Steven M. Wilgorn and Correction Officer Gerald Timmons and Warden J. Trombly were present. I was told by C.O. Timmons to face the wall and to place both of my hands onto the wall, to undergo a "Strip Search".

I was then instructed to remove my clothing items (shirt, footwear, pants, socks & boxer shorts) one by one and to hand over to C.O. Trombly, and then to place my hands back onto said wall and remain facing the wall. I complied with all said instructions that were given to me. Once I became completely "naked" and was facing the wall with both of my hands being placed on the wall, I was attacked by (see attached)

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Injured Nose with Deviated Nasal Septum, Physical Injuries.
 Right Neck Injury Concussion
 Mouth Injury (see attached)

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

2. Continuation of Claim Continued:

2. ^{1st} Factor Continued

C.O. Tillotson and C.O. Trumble. Where both Officers began striking Me with closed fist punches and blows to My head and facial area.

3. The impact of said closed fist punches and blows caused Me to fall on to the floor of said Buick No. 2. I began to yell out for help by saying "Get off me" "Help" "Help" "Help" in a really loud tone of voice. C.O. Tillotson then began choking Me by placing his hands around My throat/neck and squeezing hard with force & pressure.

4. Next, Correction Officer John H. Conklin entered the tank. Saw what Tillotson and Trumble were doing to Me and he too began punching Me in My head and facial area, with closed fist striking blows.

5. I really began to fear for My life at this point, because they would not let go of Me.

6. Correction Officer Tillotson took his hand from around my Cold throat/neck and resumed striking and punching me with closed fist blows. I then began saying: "Please Don't Kill Me" "Please Don't Kill Me" to these officers as they were beating me.

7. These three (3) Cold Correction Officers continued to beat, jump and physical assault me with excessive force as I repeatedly begged for my life by Cold saying "Please Don't Kill Me" "Please Don't Kill Me" to these officers. Cold Area Supervisor - Correction Sergeant Steven M. Walrath remained present inside of the tank as Correction Officers Gerald Tillotson, Wilson J. Trombley and John H. Conklin beat, jumped and physical assaulted me and failed to intervene to protect me from harm and serious danger.

8. When Tillotson, Trombley and Conklin finally closed up on me I was left Cold naked "laying on my back" on the floor of the tank and "bleeding". Initially I did not know that I was bleeding and that my mouth was full of blood. I just felt something in my mouth as the assaulting Correction Officers and Sgt. Walrath were exiting the tank. Where I spit what was

in My Mouth "OUT" into the air. Which also
 end of happened to be a glob of blood. Which
 landed on a plexy glass window directly across from
 the door of the tank. Said Mr. Decco Staff
 Exited the tank and Closed & locked the door of the tank,
thus locking Me inside of the tank.

9. Sometime thereafter the incident a different group
 of Correction Officers and a Correction Sergeant
 returned to POW tank no. 2 and took photos of Me,
 photos of the tank with My loss of blood being captured
 and photos of the Plexy glass window out side of the tank
 where My spit of blood landed.

10. Then Sometime thereafter said photos were taken
 Lieutenant Orazio A. Buccolo Squeezed outside of POW
 tank no. 2 where he told Me that "Medical" was
 on their way to come see Me and instructed Me to tell
 Medical that nothing happened to Me and that I had
 no injuries. I feared for My life that if I told
 Medical what happened and reported injuries that I
 would be beaten again where they would kill Me.
 Therefore, when Medical came I followed said Lt. Buccolo's
 instructions and told them that nothing happened to Me
 and that I didn't have any injuries.

11. Medical Doctors Penhveena and Oliver for Green Haven Correctional Facility were the Medical Staff Employed by Mr. Ducco. Whome came to the tank to see me and asked me the questions of (1) What happened? and (2) do you have any injuries? Where I said told them that (1) Nothing happened to me and (2) I didn't have any injuries.

12. Both said doctors "Examined Me" and observed my need for further Medical Attention, in which the facility's hospital was unequipped to handle. Therefore, said doctors ordered for me to be taken to an Emergency Room outside of Mr. Ducco's to a Community hospital better suited for the treatment my injuries needed.

13. As I was getting dressed to be taken to said outside Emergency Room hospital said Lieutenant Bucolo "Scin" instructed me to not tell the outside Emergency Room hospital staff what happened to me and to not report any injuries. I continued to remain in fear for my life and thought that I would be killed if I did not follow "Lieutenant Bucolo's" said instruction.

14. I was taken to INGRAM Hospital Center ~
 Emergency Department at 670 Connelley Avenue
 Green, New York 10022 in a N.Y. Decco Van ~
 a Correctional Sergeant, Rita and Correctional Officers
 Pittero and Cruz. Where I refused to answer the
 Emergency Room Medical Staff question of what happened to me.
 "Even when one of the receiving nurses told me that my
 [NOSE WAS BROKEN] Upon my arrival of her just looking
 at me". She also told me that the Facility [GREEN HAVEN]
 said I fell and asked me what really happened (?)

15. Therefore further tests were ordered and conducted
 upon me at [CEN-CEN]. Which revealed that I sustained
 several injuries diagnosed as follows:

- (1) NASAL FRACTURE: break or crack in the bones of the nose;
- (2) HEAD INJURIES, Adult: Concussion or bump on the brain,
 inflicting memory difficulties
 DIZZINESS, HEADACHES, Double Vision,
 Seeing Ghosts, Depression, Tiredness,
 Weakness, Difficulty with Concentration
 and Hearing Difficulties.
- (3) Mouth Injury: Swelling, Cuts and Bruises to my
 upper and lower lip

16. Upon arrival Center Emergency Department additional physicians discussed instructions and order was a prescription for Amoxicillin Antibiotic 300 M.L. capsules three times a day x 5 days. Follow-up in 3-4 days with my doctor. Rest ICE Motrin or Tylenol as needed for pain and to return to ER for any concerning matters.

17. On approximately 9:15 a.m. I was returned to Green Haven Correctional Facility and placed in the infirmary down on a suicide watch. After a nurse took my vitals signs examined me where upon her examination of my infirmary admission the injured she observed me to have been documented. On approximately 10:15 a.m. Doctor Silver called the facility and ordered a prescription of Tylenol to be given to me for pain.

18. On July 5 2013 I was seen by Doctor Bentivegna where I requested to be discharged from the infirmary because I did not want to be held in the infirmary. I wanted to return back to my cell in general population. Doctor Bentivegna discharged me from the facility's infirmary but I did not return to my said cell in general population. I was taken back to Bunk No. 1 on the O.M.H. Battelicht.

Unit and told that I would remain there until a doctor from O.M.H. discharged me.

19. The New York Security Staff Correction Officers Sergeant, Lieutenants, Captains, Deputy Superintendents and the Superintendent himself were all aware that Mr. Tins taken to the outside hospital. [Reported that my nose was broken] as a result of this July 3 2013 New York Staff Attack and physical assault incident against me, is described.

20. When I was said returned to P.G.U. tank no. 1, the Deputy Superintendent for Security, made rounds to check the log book for the R.C.T., O.M.H. Detention Unit. Where he told me that upon my discharge from the Detention Unit, I would not be returning to my said cell of general isolation. He told me that I was going to be placed in the O.H.U. [Special Housing Unit ~ Solitary Confinement]. When I asked him what for? He said for assaulting 1 of my officers. I replied that I didn't assault anyone! He then told me that I spit blood into the face of his officer and that was assault on staff. I then told him that I did not spit blood or spit period into any staff's face.

21. Being that the Correction Officers, whom assaulted me with Excessive Force broke my nose and inflicted serious injuries to me the Area Supervisor at the time of the incident whom was said present as I was being beaten and failed to intervene and protect me from harm Correction Sergeant Steven M. Walworth fabricated an inmate misbehavior report against me. "Which was falsely written in an attempt for these No Docs employees to cover up their Police Staff misconduct unlawful actions said committed against me as described". Where the incident was also fabricated and documented as a Use of Force incident.

22. While I was said being held on the Celllight Unit, I met with O.M.H. Staff alone in private where I then reported that No Docs Correction Officers attacked and injured assaulted me when I was being admitted into said tank no. 1. Where I further reported that I suffered a concussion and they broke my nose as a result of the incident and where the Dept. for Security told me that I was going to be put in the Special Housing Unit upon my discharge from the Celllight Unit. Further alleging that I spit blood in one of the assaulting officers face which was an alleged assault on staff.

23. I told O.M.H. Staff that I only bit
 I time which was into the air as I layed on
 my back on the floor of the tank and that I
 did not bit directly into the face of anyone and that
 I did not assault Staff. That I was the victim of
 Staff assaulting an inmate. O.M.H. Staff told me that
 they did not have any control over me being placed in
 the O.H.U. and for me to report what happened at the
 hearing regarding the Inmate Misbehavior Report that was
 going to be held. The O.M.H. Staff also told me
 that they were going to report my claims of being assaulted
 by Staff.

24. On July 8, 2013 I was seen by Medical
 where it was noted and documented that I still had
 physical injuries on my head and facial area.

25. On July 10, 2013 I was discharged from the O.M.H.
 Detention Unit and admitted into Green Haven Correctional
 Facility's Special Housing Unit.

26. On July 11, 2013, the following hearing I was served
 two (2) Tier II Inmate Misbehavior Reports, where both of
 these Inmate Misbehavior Reports were fabricated and falsely written
 to Inmate rule violations of charges I did not commit.

27. The first Inmate Misbehavior Report was falsely written by Correction Sergeant Steven M. Wallrath charging Me with inmate rule violations as follows:

Incident Date: 03 July 13

100. IL Absent on Duty Incident time: 1030 hrs
 104. IL Violent Conduct
 106. LO Refusing Direct Order
 115. LO Refused Search or Frisk
 118. 22 Unhygienic Act

The Description of incident was written and reads as follows:

On the above date and approximate time I Sgt. Wallrath was supervising the admission of inmate Robinson #46175 into Prison Unit L. During the strip frisk, inmate Robinson came off the wall in an aggressive and hostile manner. Officers Tillotson and Trombley began struggling with Robinson and subsequently brought Robinson to the floor in an effort to gain control of the inmate. Officer Conklin entered the cell in an attempt to help Tillotson and when he began to kneel down to assist Tillotson, inmate Robinson spit blood at him. He hit Conklin with his butt on the right side of his uniform, by his pocket and also on his right cheek by his eye. As soon as Robinson was under control, all staff exited the cell and Robinson remained on the cell floor. Robinson was then ordered by Me to receive

an injection by PU Staff, to which he responded "Fuck You"!
 Cmp & fabricated falsely written INMATE Misbehavior Report

28. The Second INMATE Misbehavior Report was falsely written by Correction Officer T. Smith, charging Me with INMATE Rule Violations as follows:

Incident Date: 03 July 13

Job. 10 Refusing Direct Order

180.14 Urinalysis Testing Violation

The description of the incident was that when I was in GUTANK No 1 on July 3, 2013, after this Excessive Force Incident, Officer Smith charged that he ordered Me to Submit to an Urinalysis testing and that I refused to Submit a URINE Sample

29. When I was served these (2) False INMATE Misbehavior Reports, I detected three My Joses Employee Names on a Tier Assistance Selection Sheet. Where Correction Sergeant N. Yando, whom was the third Selection, was the person that was assigned to be My Tier Assistance

30. On July 12, 2013 Correction Sergeant N. Yando of My Tier III Detention Met With Me at My location of Special Housing Unit Cell No. 25 where I requested to have two (2) Inmate Witnesses testify at My Tier III hearing for the Misbehavior Report of July 3, 2013. The two said inmate witnesses I requested were as follows:

- (1) J. Brown Din # 0844936 Whose Cell location was the Special Housing Unit at 42 Cell
- (2) A. Huertas Din # 1042551 Whose Cell location was General Population A block, 3 Company, 336 Cell

On the day of the July 3, 2013 Executive Force Incident both of these inmates were being held on the O.M.H. Cell Light Unit in the Sou Tank 35 well. Inmate Brown was in Sou Tank No. 6 and Inmate Huertas was in Sou Tank No. 2 directly next to tank No. 1 where the Physical Staff fought on Inmate Incident said occurred and took place.

I also requested the Video of Sou Tank No. 2 and all paperwork to be from Report. Unusual Incident Report. Use of Force Report regarding the Inmate Misbehavior Report.

31. On July 11, 2013, the Superintendent of Green Haven Correctional Facility "William A. Lee" assigned "Gertraud C. Elert" to conduct a Tier II Superintendent's Hearing on file for the two Misbehavior Reports issued on July 3, 2013.

32. On July 15, 2013, inside the hearing room of the Special Housing Unit of Green Haven Correctional Facility "Gertraud C. Elert" commenced the Tier II Superintendent's Hearing at approximately 10:30 a.m. Where the hearing record reflects that the "Gertraud C. Elert" stated that she was designated to conduct this hearing by Superintendent Lee pursuant to 7 NYCRR § 253.2 - 254.2 where NYDCCB Directive No. 4932 Title: Chapter V Offenders Behavior & Allowances References: 7 NYCRR Chapter V, Subchapters A and B.

33. However, the hearing officer, Gertraud Elert, did not end or failed to conduct the Tier II Superintendent's hearing in compliance with and or pursuant to 7 NYCRR

34. Where at no time prior to and or during the Superintendent's hearing was it afforded the following procedure the process rights:

- to be free from a predetermination of guilt by the hearing officer
- to have witnesses to testify for me
- to documents and evidence to be disclosed to me
- to be free from unnecessary delays of the hearing and invalid untrue false pretenses of hearing extension request
- to have the hearing conducted by an impartial unbiased unobjective and ethical hearing officer
- to sufficient and non-conflicting evidence or testimony

35. The hearing officer showed a predetermination of guilt by making statements through out the Superintendent's hearing. One is follows:

- A. You Court on Officer Conklin
- B. You came off the wall in an aggressive manner where use of force was necessary
- C. You assaulted Officer Conklin by hitting on him, and
- D. You refused to give Officer Smith a urine sample